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SUBJECT: ZIMBABWE 2006 INVESTMENT CLIMATE STATEMENT

REF: STATE 20194

¶1. (U) The Government of Zimbabwe,s misgovernance has severely crippled the local economy, making it unlikely to attract or absorb significant foreign direct investment in
¶2006. Investment prospects in Zimbabwe are bound to remain dismal due to the country,s unstable economic and political environment. Government policies and recent constitutional amendments have eroded rule-of-law and put private property rights at grave risk.

¶2. (U) Foreign investors will find few if any sectors appealing at this time. The government,s Export Processing Zones Authority reported that within a six month period in 2005 33 agro-based companies) once the economy,s backbone) closed down. The World Bank/International Finance Corporation,s &Doing Business in 20068 survey ranked Zimbabwe 126 out of 155 countries considered and one of the worst in southern Africa. Further illustrative of the deteriorating investment climate, Zimbabwe fell to last place out of 64 regions and countries surveyed in the Vancouver-based Fraser Institutes, 2004-2005 report on mineral policy investor friendliness.

Openness to Foreign Investment

¶3. (U) The government,s intervention in many sectors makes Zimbabwe generally unwelcoming to foreign investment, particularly from Western countries. Nonetheless, about 25 U.S. multinationals maintain subsidiaries in the country, largely holdovers from better years a decade ago. Many others sell their products through certified dealers.

¶4. (U) The government,s priority sectors for foreign investment are manufacturing, mining and infrastructure development for tourism. In these sectors foreign investors are free to take up 100 percent ownership. New draft mining legislation, however, now under consideration, would require foreign investors to cede a 51 percent share in foreign-owned mines to the government, 25 percent of which would be non-contributory. In the services sector foreign investors are allowed to take a maximum 70 percent share holding.

¶5. (U) The government reserves several sectors for local investors. Foreign investors wishing to participate in these sectors may only do so by entering into joint venture arrangements with local partners. The foreign partners may take a maximum 35 percent shareholding. The following industries are reserved for Zimbabwean citizens:

Agriculture/Forestry
 a) Primary production of food and cash crops
 b) Primary horticulture

c) Game, wildlife ranching and livestock
d) Forestry
e) Fishing and fish farming
f) Poultry farming

Transportation

a) Road haulage
b) Passenger bus, taxis and car hire services of any kind
c) Tourist Transportation

-- Retail/wholesale trade, including distribution
-- Barber shops, hairdressing and beauty salons
-- Commercial photography
-- Employment agencies
-- Estate agencies
-- Valet services
-- Manufacturing, marketing and distribution of armaments
-- Water provision for domestic and industrial purposes
-- Rail operations
-- Grain milling
-- Bakery and confectionary
-- Sugar refining
-- Tobacco packaging and grading post auction
-- Cigarette manufacturing

¶6. (U) Foreign investors wishing to start a new project in Zimbabwe must first register with and be approved by the Zimbabwe Investment Centre (ZIC), which then issues Investment Certificates. The Export Processing Zones Authority (EPZA) is the first port of call for any investor wishing to invest in Export Processing Zones.

¶7. (U) All private firms are required to incorporate and register with the Registrar of Companies within the framework of their investment certificate or exchange control approval. Foreign investment in existing companies requires Reserve Bank approval. Applications are submitted to the Bank,s Exchange Control Department through the investor,s commercial bank or merchant bank or other authorized dealer. Foreign investors with valid investment certificates may acquire real estate.

¶8. (U) In the mid-1990s, the government identified privatization of Zimbabwe,s parastatal companies as a priority, but only two state-owned enterprises have been successfully privatized since then. The parastatals, operational inefficiencies, weak balance sheet positions and their huge debt overhang make it unlikely that privatization will go forward in 2006.

¶9. (U) Commensurate with its anti-West stance in recent years, the government has begun to encourage economic ties with Asian countries, particularly China, as a means of arresting further economic decline and combating what it casts as neo-colonialism. Under this &Look East8 policy, selected Asian investors have been offered access to reserved sectors, sometimes at the expense of local or established foreign investors. Despite the official emphasis placed on these ties and a few high profile announced projects, Asian investment overall remains limited, especially compared to the presence of remaining investors from South Africa, the U.K, and U.S.

Conversion and Transfer Policies

¶10. (U) For the past several years, Zimbabwe has experienced an acute foreign currency shortage that, among other things, has caused crippling shortages of fuel and other imported goods and components, defaults on public and private sector debt service payments, and a sharp decline in industrial, agricultural and mining operations. Foreign currency is difficult to obtain due to the Reserve Bank of Zimbabwe,s restrictive exchange controls, the country,s declining ability to generate exports, and the lack of balance of payments support. The Foreign Exchange Control Act regulates currency conversions and transfers. It does not prohibit foreign investors from moving assets between Zimbabwean and foreign accounts, but foreign exchange shortages and

constraints of the foreign exchange regime impede the remittance of investment returns. Some local businesses have credibly charged that the government has raided their foreign currency accounts to repay past-due IMF debts.

¶11. (U) As of January 2006, exporters may retain 70 percent of their foreign currency account balance for their own use and liquidation on the interbank market within a 30-day retention period. Of the remaining 30 percent, 12.5 percent of export proceeds must be liquidated to the Reserve Bank at the interbank exchange rate (effectively fixed at Z$99,200:US$ as of January 24, 2006), and 17.5 percent must be sold to the Reserve Bank at the official auction rate, fixed in January 2006 at Z$30,000:US$. However, uncertainties associated with retention requirements and retention periods, which have been adjusted frequently without notice, constrain business planning and operations.

¶12. (U) The Foreign Exchange Control Act extends to prospective outward investment as well as dividend remittances. Traditionally, the government has discouraged investment by Zimbabweans outside their country, and relatively few Zimbabwean firms have made such investments.

Expropriation and Compensation

¶13. (U) Despite provisions in Zimbabwe's constitution that prohibit the acquisition of private property without compensation, the government has sanctioned seizures of privately owned agricultural land without compensation since ¶2001. The government in April 2000 amended the constitution to authorize the compulsory acquisition of privately owned commercial farms with compensation limited to the improvements made on the land. More recently, the government changed the constitution again in September 2005 to transfer ownership of all expropriated land to the government with no recourse to local courts for all those who lost their farms since the land invasions began. Since the passage of this recent amendment, top government officials, ruling party supporters, and members of the security forces have continued to disrupt production on commercial farms, including those owned by foreign investors.

¶14. (U) The President and other politicians have in the past threatened to target the mining and manufacturing sectors for similarly forced indigenization. The government's program to seize commercial farms without either the intention or the funds to compensate the titleholders, and without recourse to the courts, has raised serious questions about respect for property rights and the rule of law in Zimbabwe. Any potential foreign investors should take into account the risk of uncompensated expropriation.

Dispute Settlement

¶15. (U) In the event of an investment dispute (excepting the current land reform program), the Government of Zimbabwe agrees in theory to submit the matter for settlement by arbitration according to the rules and procedures promulgated by the United Nations Commission on International Trade Law (UNCITRAL), once the investor has exhausted the administrative and judicial remedies available locally. This option so far appears to be untested by investors.

¶16. (U) The government has acceded to the 1965 convention on the settlement of investment disputes between states and nationals of other states, and to the 1958 New York convention on the recognition and enforcement of foreign arbitral awards.

¶17. (U) Government efforts to influence and intimidate the judiciary since the late 1990s have raised serious concerns in this area. The government and ruling elite have ignored numerous adverse judgments, and senior officials have

reiterated publicly that court orders that are not politically acceptable to the ruling party will not be honored. Administration of justice in commercial cases that lack political overtones are generally impartial. As the government,s budget constraints deepen, however, court resources have dwindled and dockets have become backlogged. A less costly dispute settlement route, which can be incorporated in contracts between companies, is alternative dispute resolution. Companies have the option of seeking alternative dispute resolution in which an independent arbitration board resolves disputes.

Performance Requirements and Incentives

¶18. (U) Several tax breaks are available for new investment by foreign and domestic companies. Capital expenditures on new factories, machinery, and improvements are fully deductible and the government waives import tax and surtax on capital equipment. Other incentives for investors include:

-- Investment allowance of 15 percent in the year of purchase of industrial and commercial buildings, staff housing and articles, implements, and machinery;
-- Investment allowance of 50 percent in the year of purchase for training, buildings, and equipment;
-- 25 percent special initial allowance on cost of industrial buildings and commercial buildings and machinery in growth point areas is granted as a rebate for the first four years;
-- Special mining lease provisions entitle the holder to specific incentive packages to be negotiated with the Ministry of Mines;
-- The government also has provided for the refund of sales taxes (15 percent) for capital goods purchased in Zimbabwe and intended for use in priority projects or investment in growth points.

¶19. (U) There are no general performance requirements outside of Export Processing Zones. Government policy, however, encourages investment in enterprises that contribute to rural development, job creation, exports, use of local materials, and transfer of appropriate technologies.

¶20. (U) There are no discriminatory import or export policies affecting foreign firms, although the government's approval criteria are heavily weighted toward export-oriented projects. Import duties and related taxes range as high as 110 percent. Export Processing Zone designated companies must export at least 80 percent of output.

¶21. (U) While official policy supports "the maximum Zimbabwean participation" in any new investment project, no specific requirements for local participation have been defined outside the 35 percent foreign share cap in sectors reserved for local investment. Nevertheless, experience has shown that 30 percent local participation is a widely accepted benchmark minimum.

¶22. (U) Government participation is required in new investments in strategic industries, such as energy and mining, public water provision, railways, and armaments. The terms of government participation are determined on a case-by-case basis during license approval. The few foreign investors (for example from China and Iran) in reserved strategic industries have either purchased existing companies or have supplied equipment and spares on credit.

¶23. (U) Foreign investors are expected to make maximum use of Zimbabwean management and technical personnel, and any investment proposal that involves the employment of expatriates must present a strong case for doing so in order to obtain a work and residence permit. Normally, the maximum contract period for an expatriate is three years, but this will be extended to five years for expatriates with highly specialized skills. Expatriates who have prior permission from the Reserve Bank's exchange control department are permitted to remit one-third of their salaries.

Right to Private Ownership and Establishment

¶24. (U) Although Zimbabwean law guarantees the right to private ownership, this right is increasingly not respected in practice. The government, as noted above, has seized a number of farms and conservancies belonging to Americans and other foreign investors in recent years without due process or compensation. Most of these property owners held Zimbabwe Investment Center approval certificates and purchased their land after independence in 1980. Despite repeated U.S. protests, the government has not addressed these extra-judicial expropriations.

¶25. (U) In each of the last two years, President Mugabe has reiterated the government,s intention to enact a broad indigenization law, and there remains a lingering threat that the government could expropriate non-agricultural property belonging to foreign firms for the purpose of transferring ownership to black Zimbabweans.

Protection of Property Rights

¶26. (U) The government's demonstrated desire to expand its control of the economy puts many investments, particularly in real property, at risk. The government's 2005 Operation Restore Order resulted in the destruction of many licensed commercial and residential structures. In addition to the thousands of agricultural properties seized under land reform during the past six years, in late 2005, the government for the first time authorized the seizure of non-agricultural land for the purpose of constructing residential stands in a Harare suburb. At about the same time, the government served eviction notices to neighbors of President Mugabe,s suburban mansion ostensibly on national security grounds. The eviction process, which is supposed to include compensation for dispossessed property owners, is ongoing.

¶27. (U) Since independence, Zimbabwe has applied international patent and trademark conventions. It is a member of the World Intellectual Property Organization. Generally, the government seeks to honor intellectual property ownership and rights, although there are serious doubts about its ability to enforce these obligations due to a lack of expertise and manpower. We are not aware of any grievances over such issues, but pirating of videos and computer software is common. Most videos and computer software sold on the local market, for example, are pirated goods.

¶28. (U) The judiciary generally upholds the sanctity of contracts between private companies. However, in the case of contracts involving the government or politically influential individuals, judgments sometimes appear biased in favor of the latter.

Transparency of the Regulatory System

¶29. (U) The government,s officially stated policy is to encourage competition within the private sector. That said, bureaucratic functions in this increasingly controlled economy lack transparency and corruption within the regulatory system is increasingly worrisome.

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Efficient Capital Markets and Portfolio Investment
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¶30. (U) New portfolio investment in Zimbabwe has been very limited in recent years. According to the IMF, net portfolio inflows reached US$2 million in 2004 after a massive outflow of US$68 million in 2001 in response to the start of the land invasions. Zimbabwe's stock market has 80 listed companies.

Overall, trading is thin and volatile. The public stock of many smaller companies is closely held. In September 1996, the government opened the stock and money markets to limited foreign portfolio investment. Since then, a maximum of 40 percent of any locally listed company can be foreign-owned with a single investor acquiring a maximum of 10 percent of the shares on offer. In 2005, the government introduced a 5 percent withholding tax on the sale of marketable securities. It also upped the prescribed asset ratio of the National Social Security Authority,s investment to 35 percent at market value, and the prescribed asset ratio of private pension funds to 40 percent. Foreign participation in the bond market is restricted to the primary market and only 35 percent of invested capital may be placed in bonds.

¶31. (U) Zimbabwe's financial sector is quite large and well developed by Sub-Saharan African standards. An impressive variety of financial instruments is traded, though thinly, including debentures, private sector bonds, bankers acceptances, treasury bills, and municipal and utility bonds. Two major international commercial banks and a number of regional and domestic banks operate with over 200 branches total. The merchant banks are quite sophisticated and agile. However, the well-publicized failure of a number of financial institutions, primarily due to fraud and inept management, has led to the closure of a number of local banks and a number of top executives have been prosecuted or have fled the country to avoid prosecution. These failures have also raised concerns about the oversight capability of the Reserve Bank.

Political Violence

¶32. (U) The opposition and civil society operate in an environment of intimidation and repression. Individuals and companies out of favor with the government or regarded by the government as aligned with the opposition, suffer harassment and bureaucratic obstacles in their business dealings. The government has closed three independent newspapers, for example, and has denied numerous telecommunications licenses for apparently political reasons. Domestic businesspeople out of favor with the government have been incarcerated for lengthy periods under trying conditions, including alleged torture, for engaging in illegal business practices such as externalization of currency.

¶33. (U) In April 2005, with no notice and in the middle of the country,s winter, the GOZ embarked upon Operation Restore Order, destroying the purportedly unpermitted homes, businesses, or both, of over 700,000 people. Police demolished or forced victims to destroy their own homes and businesses, many of which did appear to have all relevant permits, without providing alternative accommodation or means of reestablishing their livelihoods. The government then blocked the efforts of NGOs and international organizations to provide emergency relief.

Corruption

¶34. (U) There is widespread corruption in government. Implementation of the government,s ongoing redistribution of expropriated commercial farms has substantially favored the ruling party elite and continues to lack transparency. Top ruling party officials and business people supporting the ruling party have received priority in distribution of the country,s resources, including priority access to limited foreign exchange and fuel. The government,s campaign to provide housing plots and vending sites for victims of Operation Restore Order appears to be benefiting mostly civil servants, security forces, and ruling party supporters.

¶35. (U) In January 2005 the government enacted an Anti-Corruption Act, which established a government-appointed Anti-Corruption Commission; however, it includes no members

from civil society or the private sector. In the same month, the government established the Ministry of State Enterprises, Anti-Monopolies, and Anti-Corruption to investigate and raise awareness about corruption; however, government officials and police lack sufficient political backing by senior levels of the government to effectively investigate the corruption. The government prosecutes individuals selectively, focusing on those who have fallen out of favor with the ruling party and ignoring transgressions by favored elite.

Bilateral Investment Agreements

¶36. (U) The U.S. has no bilateral investment or trade treaty with Zimbabwe. Zimbabwe currently has bilateral investment agreements with Germany, the United Kingdom, Netherlands, Belgium, Portugal, Switzerland, Sweden, Malaysia, Mozambique and China. It is negotiating bilateral investment treaties with Italy and South Africa. However, as noted above, commercial farms covered by some of the treaties have been seized or listed for acquisition, thereby denying the owner benefits under these treaties.

OPIC and Other Investment Insurance Programs

¶37. (U) The U.S. Government and Zimbabwe concluded an OPIC agreement in April 1999. Zimbabwe acceded to the World Bank's multilateral investment guarantee agency (MIGA) in September
¶1989. Support by the Export-Import Bank of the U.S. is not available to Zimbabwe. Many other major donor countries have also suspended their trade finance and export promotion programs, as well as investment insurance, due largely to Zimbabwe,s mounting bilateral arrears and deteriorating investment climate.

Labor

¶38. (U) Zimbabwe,s interconnected economic and political crises have prompted many of the country,s most skilled and well educated to emigrate, leading to widespread labor shortages for managerial and technical jobs. At the same time, the severe contraction of the economy in recent years has caused formal sector employment to drop significantly. The best available surveys place formal sector unemployment as high as 80 percent. As noted above, foreign investors are encouraged to hire local nationals.

¶39. (U) The country's HIV/AIDS epidemic is also taking a heavy toll on the workforce. However, with substantial support from the U.S. Government and other donors, Zimbabwe has instituted policies that have contributed to reducing the adult infection rate from 24.6 percent in 2003 to 20.1 percent in 2005, making Zimbabwe only the second country in Sub-Saharan Africa to stem the disease,s tide.

¶40. (U) The government is a signatory to International Labor Organization (ILO) conventions protecting worker rights, although the world body recently designated Zimbabwe as a "notorious country" for its continued attempts to limit workers' right to organize and hold labor union meetings. The 1985 Labor Relations Act set strict standards for occupational health and safety, but enforcement is fairly lax and inconsistent across the industrial sectors.

¶41. (U) In light of the hyperinflationary environment (the inflation rate is widely accepted to have reached quadruple digits as of March 2006, although the government maintains it is in the mid-triple digits), employers and workers have agreed to negotiate wages and other benefits on a quarterly rather than annual basis. Collective bargaining takes place through a National Employment Council (NEC) in each industry, comprising representatives from labor, business, and government. In addition, the Zimbabwe Congress of Trade

Unions (ZCTU), the country's umbrella labor organization and traditional advocate for workers to both business and government. In addition, a Tripartite Negotiating Forum (TNF) was established in 2001 for labor, business, and government to tackle macro-social issues. However, these talks have been fitful and unproductive since their inception.

¶42. (U) Beginning in January 2005, the government stepped-up harassment of the ZCTU and its leadership, and has launched investigations into alleged financial improprieties at ZCTU. Under Zimbabwe labor law, the government can intervene in ZCTU,s internal affairs if it determines that the leadership is not acting in the workers, interest. The government has threatened to eliminate the ZCTU, and has taken steps to marginalize the traditional unions and the formal labor dispute resolution mechanism. To undercut the strength of ZCTU, the government has created an alternative umbrella organization, the Zimbabwe Federation of Trade Unions (ZFTU). However, outside of government or the state-controlled media, the ZFTU is not regarded as a legitimate labor organization. The ZCTU remains the voice of labor in Zimbabwe and the country,s official and internationally recognized labor organization.

Foreign-Trade Zones/Free Ports

¶43. (U) The government promulgated legislation creating Export Processing Zones (EPZs) in 1996. Zimbabwe now has 183 Export Processing Zone designated companies. Benefits include a five-year tax holiday, duty-free importation of raw materials and capital equipment for use in the EPZ, and no tax liability from capital gains arising from the sale of property forming part of the investment in EPZs. Since January 2004 the government has generally required that foreign capital comprise a majority of the investment. The requirement on EPZ designated companies to export at least 80 percent of output has constrained foreign investment in the zones. The government has recently drafted legislation, which, if approved, would dissolve the Zimbabwe Investment Centre and the related Export Processing Zones Authority and replace them with a new National Investment Authority.

Foreign Direct Investment Statistics

¶44. (U) Zimbabwe Net Investment Flows 1998-2004 in Million US$

	1998	1999	2000	2001	2002	2003	2004 est,
Direct Investment	436	50	16	0	23	4	9
Portfolio Investment	11	21	-1	-68	-2	4	2

Source: IMF

Resources

¶45. (U)
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